



RESOLUTION R-016-23

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF WALKER COUNTY TO ADOPT A RECORDS CENTER ACCESS POLICY

WHEREAS, the Constitution of the State of Georgia, approved by the voters of the State in November 1982, and effective July 1, 1983, provides in Article IX, Section 2, Paragraph 1 thereof, that the governing authority of the County may adopt clearly reasonable ordinances, resolutions, and regulations; and

WHEREAS, the governing authority of Walker County, Georgia ("County"), is the Walker County Board of Commissioners ("Board"); and

WHEREAS, the County, by and through its Board, is mandated by state law with various obligations regarding other elected officials in Walker County; and

WHEREAS, one such obligation pertains to providing the County and its elected officials with appropriate, secure storage for public documents/property and/or adequate funding for such storage; and

WHEREAS, in this regard, the following non-exhaustive list of state statutes is notable:

- O.C.G.A. § 15-6-86, requires that the Board provide the Superior Court Clerk adequate storage facilities for records;
- O.C.G.A. § 36-9-6(c)(1), requires the Board provide adequate storage facilities for records documenting property rights, deeds, and wills;
- O.C.G.A. § 36-9-2, provides that the Board shall have the control of all property belonging to the county;
- O.C.G.A. § 15-16-10, identifies the various document generation and storage responsibilities of the Sheriff, with a corresponding obligation of the Board to fund such responsibilities (*Board of Commissioners of Dougherty County v. Saba*, 278 Ga. 176 (Ga. 2004));
- GA CONST Art. 9, § 2, ¶ III, "any county... may exercise the following powers and provide the following services: *archive facilities*;
- O.C.G.A. § 50-18-102, provides that all records created or received in the performance of duty and paid for by public funds are deemed to be public property and shall constitute a record of public acts and destruction of same shall occur only through the operation of an approved retention schedule; and,
- O.C.G.A. § 36-5-22.1, provides that the Board has original and exclusive jurisdiction regarding the directing and controlling of all the property of the county.

WHEREAS, there presently exists in the County a Records Center located at 91 Industrial Drive, Chickamauga ("Records Center"); and

WHEREAS, the Records Center contains the stored public documents of various Walker County agencies and elected officials, including those of the Board, the Superior Court Clerk, the Sheriff, the Chief Magistrate, the District Attorney, and the Tax Commissioner; and

WHEREAS, each of the above offices or entities have unique record retention responsibilities with respect to those records for which they are responsible; and

WHEREAS, each of the above offices or entities have a fiduciary obligation to ensure that their records are preserved and safeguarded; and



WHEREAS, each of the above offices or entities have a legal obligation to ensure that access to their stored records is limited to those having a legal right of such access; and

WHEREAS, each of the above offices or entities have a legal obligation to ensure that their records are not commingled with the records of another office or agency; and

WHEREAS, the Board believes that enhanced security and access protocols must be promptly instituted at the Records Center to ensure that County records and those records of the other offices or entities that store records at the Records Center are preserved and that reasonable restrictions on access are instituted; and

WHEREAS, the Board believes that providing sufficient records preservation resources and instituting additional safety and access protocols at the Records Center is in the best interest of the County and its citizens, and is also in keeping with the legal mandate that the County is responsible for safeguarding County property and for supporting those other elected officials that have similar record-keeping obligations.

THEREFORE, BE IT RESOLVED by the Board of Commissioners of Walker County, Georgia that within forty-five (45) days of adoption of this Resolution, the following measures shall be instituted at the Records Center to augment and enhance the safekeeping, preservation, and long-term maintenance of records stored there:

1. A keypad entry system utilizing a specific numerical sequence code shall be installed as the sole and exclusive method of gaining access to the Records Center;
2. Persons authorized to have access to the keypad entry code shall be limited to:

In County Administration:

- a. Records Center Staff, ("Staff")
- b. the Chair of the Board of Commissioners, ("Board Chair")

The various "Agency Heads":

- c. the Clerk of the Superior Court,
- d. the Sheriff,
- e. the Chief Magistrate,
- f. the District Attorney,
- g. the Probate Judge,
- h. the Coroner,
- i. the Tax Commissioner

3. The keypad access number, following its initial designation, shall not be changed without the agreement of each Agency Head. Each such access code change shall be documented in a dedicated journal ("Journal") which shall be kept and maintained by the Records Manager. The Journal may be maintained in either a written or digital format at the discretion of the Records Manager. The Records Manager shall restrict access to the Journal to only Staff. Upon any access code change, each person in Section 2 shall be provided the keycode access number. All persons possessing the code sequence, Records Center Manager excluded, are expressly prohibited from sharing it or making it known in any way to any other person. The Records Center Manager is solely and exclusively authorized to disclose the keycode access number and only to individuals with a bona fide, good faith reason to have such number.

4. Immediately upon passage of this Resolution, each Agency Head will be allowed to access the Records Center only if accompanied by the Records Center Manager or another Agency Head. Because the Staff are employees of, and directly report to the Board Chair, the



Board Chair shall only access the Records Center when accompanied by one of the Agency Heads.

5. Staff are authorized to access the Records Center unaccompanied by any other person, and are the only persons authorized to have unaccompanied access. Sole access to the Records Center by any other person is prohibited.
6. When entering the Records Center, the Board Chair and the Agency Heads are only authorized to access records for which they are the legal custodian. The Board Chair and Agency Heads are prohibited from accessing any other records in the Records Center.
7. Necessary access to the Records Center by specialized personnel for maintenance, repair, renovation, upgrade, delivery of supplies and materials, etc., shall be allowed, but shall only occur with the approval of and in the presence of the Records Manager. Except for emergency situations, all such work shall be scheduled by Staff at least one week prior to access occurring. The Records Manager shall notify the Board Chair and all Agency Heads no later than three (3) business days prior to such access, listing the names and purpose of such access. Staff shall likewise enter all such access events in the Journal.

BE IT FURTHER RESOLVED within forty-five (45) days of adoption of this Resolution (footnote 1), the Records Manager shall prepare and implement a Records Retention, Procedures and Protection Manual ("Manual") that shall, at a minimum, contain the following:

- A. A requirement that any person that enters the Records Center shall complete an electronic or manual log detailing who is entering the Records Center, the date, the time of entry and exit, and the purpose for entry;
- B. A requirement that the Records Manager shall, no less than monthly, provide a summary report to Agency Heads containing a list of keypad entries into the Records Center for the prior month, and the monthly results of the "log" described in Section A;
- C. A record retention and destruction protocol ("Record Protocol"), detailing the various records maintained at the Records Center, the timelines for retention, and those safeguards necessary for document destruction in accordance with applicable law. Each Agency Head shall review and approve that portion of the protocol applicable to his/her Agency;
- D. A prohibition on the destruction of records *except* as authorized by (1) applicable law, (2) the Records Protocol identified in Section C, and (3) that Agency Head having custody of the records being destroyed. Each occurrence of record destruction shall be documented in the Journal, to include specific written or digitally notated authorization by the pertinent Agency Head of the batch or batches of records to be destroyed;
- E. Mandating that there shall be no commingling of Agency records within the Records Center and, in the event Agency records are currently commingled, that a dedicated program of segregating such records shall occur as soon as practicable;
- F. Requiring that the Board Chair and each Agency Head execute a Memorandum of Understanding agreeing to the material terms and provisions of this Resolution, to include the role of the Records Manager and Staff, and further confirming that the Manual and Records Protocol have been read, understood, and will be followed. The Memorandum shall contain a reference to Georgia law regarding record retention protocols, with a reminder that any destruction of public records outside of the structure set forth in the State of Georgia record retention guidelines is a misdemeanor, per O.C.G.A. 50-18-102;
- G. An allowance that the provisions of this Resolution, including the entry and access protocols in Sections 2 through 7 of this Resolution may be modified only upon the unanimous written consent of the Agency Heads;



H. Any other terms and provisions considered appropriate by the Records Manager and that are agreeable by the affected Agency Head, so long as such terms and provisions are in accordance with applicable law.

BE IT FURTHER RESOLVED the Board hereby authorizes any expenditures from County funds, to include any necessary budget adjustment, that is reasonably necessary to implement the directives herein set forth.

SO RESOLVED AND ADOPTED this 23rd day of March, 2023.

ATTEST:

WALKER COUNTY, GEORGIA

Whitney Summey

Whitney Summey, Deputy Clerk

Shannon K. Whitfield

SHANNON K. WHITFIELD, Chairman



The foregoing Resolution received a motion for Passage from Commissioner Aske, second by Commissioner Hart, and upon the question the vote is 4 ayes, 0 nays to adopt the Resolution.

footnote 1 - The forty-five (45) day period shall be extended as reasonably necessary regarding subsections (C), (E), and (F) below so that the tasks described therein may be completed.